

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

JAVIER FIGUEROA-  
CONSTANTINO,

Movant-Defendant,

v.

UNITED STATES OF AMERICA,  
Respondent-Plaintiff.

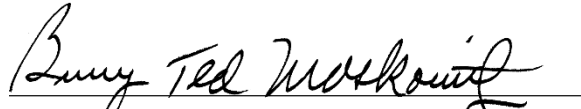
Crim. Case No.: 14cr3575 BTM  
Civ. Case No.: 16cv1657 BTM

**ORDER RE: SUCCESSIVE §  
2255 MOTION**

Defendant Javier Figueroa-Constantino has filed a motion to reduce his sentence under 28 U.S.C. § 2255 based on Johnson v. United States, \_\_ U.S.\_\_, 135 S.Ct. 2551 (2015). However, Defendant previously filed a § 2255 motion, which was denied in an order filed on February 8, 2016. Accordingly, Defendant's instant motion is successive, and Defendant must make a motion in the Ninth Circuit Court of Appeals for an order authorizing this Court to consider it. 28 U.S.C. § 2255(h). The Court cannot consider Defendant's instant motion unless a panel of the Ninth Circuit Court of Appeals certifies the motion to contain newly discovered evidence or a new rule of constitutional law made retroactive to cases on collateral review by the Supreme Court. Id.

**IT IS SO ORDERED.**

Dated: July 21, 2016

  
Barry Ted Moskowitz, Chief Judge  
United States District Court